

Notice of Allowability

Application No.

10/003,970

Examiner

Jacqueline F Stephens

Applicant(s)

KUEN ET AL.

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3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Amendment filed 5/27/04.
2. ☒ The allowed claim(s) is/are 3,4,6-13,15-25 and 27-41.
3. ☒ The drawings filed on 25 August 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
 - * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

Allowable Subject Matter

1. Claims 3, 4, 6-13, 15-25, and 27-41 are allowed.
2. The following is an examiner's statement of reasons for allowance:

Regarding claim 20, the overall claimed combination of an absorbent article having an inner layer, outer layer, and absorbent body between the inner and outer layers and including containment flaps, which have a first layer as claimed and a second liquid permeable layer that partially surrounds a lateral and medial surface of the first layer and free from fixed engagement with at least a portion of the medial surface to create a surge chamber; and further is structured so that the absorbent body and liquid permeable portion of the inner layer is at least in part disposed between the surge chamber and outer layer of the article is neither anticipated nor rendered obvious by the prior art of record.

Regarding claim 28, applicant's arguments regarding the claimed flap second layer being secured to the medial surface of the flap first layer is persuasive. Martin FR2699813 discloses layer 24 is fixed at 14 along edge 16 and at elastic filament 20, page 14, and paragraph 2. Therefore, the overall claimed combination of an absorbent article having an inner liner, outer layer, and absorbent body between the inner and outer layers and including containment flaps, which have a first layer as claimed and a second liquid permeable layer that overlays a lateral surface of the first layer, extends in opposed relation to a medial surface of the flap first layer, and is secured to the medial surface of the flap first layer by a first seam adjacent the distal end of the flap and

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further secured to the liner as claimed to create a surge chamber is neither anticipated nor rendered obvious by the prior art of record.

Regarding claim 30, the overall claimed combination of a method of manufacturing toilet training pants by securing an inner layer, outer layer, and absorbent body between the inner and outer layers and including containment flaps, which have a first layer manufactured as claimed and a second liquid permeable layer that overlays a medial surface of the first layer and creates a surge chamber with the liner and first and second layers; and further is structured so that the absorbent body and liquid permeable portion of the inner layer is at least in part disposed between the surge chamber and outer layer of the article is neither anticipated nor rendered obvious by the prior art of record.

Regarding claim 36, applicant's arguments are persuasive, particularly arguments on page 26, paragraph 3, where applicant defines the width of the flap second layer and the width of the medial surface of the flap first layer. The overall claimed combination of an absorbent article having an inner layer, outer layer, and absorbent body between the inner and outer layers and including containment flaps secured to the article as claimed, which have a first layer as claimed and a second liquid permeable layer that is in opposed relation with a medial surface of the flap first layer and free from fixed engagement with at least a portion of the medial surface, having the flap second layer having a width greater than a width of the portion of the

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medial surface of the flap first layer. The flap second layer being further secured to at least one of the flap first layer and the inner layer to create a surge chamber; and further is structured so that the absorbent body and liquid permeable portion of the inner layer is at least in part disposed between the surge chamber and outer layer of the article is neither anticipated nor rendered obvious by the prior art of record.

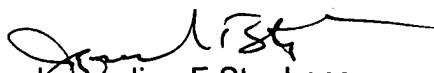
As to claim 38, the overall claimed combination of an absorbent article having an inner layer, outer layer, and absorbent body between the inner and outer layers and including containment flaps secured to the article as claimed, which have a first layer as claimed and a second liquid permeable layer that is in opposed relation with a medial surface of the flap first layer and free from fixed engagement with at least a portion of the medial surface to define a surge chamber there between, and is further structured so that the flap second layer is secured to the medial surface at least at one location there between, and the flap second layer further extending in opposed relationship with at least a portion of the flap first layer lateral surface and secured to the flap first layer lateral surface at least at one location there between is neither anticipated nor rendered obvious by the prior art of record.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacqueline F Stephens whose telephone number is (703) 308-8320. The examiner can normally be reached on Monday-Friday 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Larry Schwartz can be reached on (703) 308-1412. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jacqueline F Stephens
Examiner
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September 16, 2004